IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 27TH JUNE 2007 / 6TH ASHADHA 1929

Bail Appl..No. 3876 of 2007(S)

CRIME NO.296/2006 OF VALANCHERY POLICE STATION

: PETITIONER/1ST ACCUSED:

SHIHABUDHEEN, S/O. SAIDALAVI,
AGED 21 YEARS, CHOLAYIL PARAMBIL HOUSE,
ATHAVANAD AMSOM, KODASSERIPARA, MALAPPURAM DIST.

BY ADV. SRI.K.P.SUDHEER

RESPONDENTS: COMPLAINANT:

STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM, REPRESENTING
SUB INSPECTOR OF POLICE, VALANCHERY POLICE STATION
MALAPPURAM DISTRICT.

BY PUBLIC PROSECUTOR SRI.JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 27/06/2007 ALONG WITH B.A.NOS.3868 & 3869 OF 2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.163 of 2007

Dated this the 19th day of January, 2007

ORDER

The petitioners face indictment in a prosecution under Sections 341, 323 and 427 read with 34 I.P.C. The petitioners had entered appearance and were enlarged on bail. But on 13.10.06, the date on which the case was posted for trial, the petitioners could not appear on account of compelling reasons. No witnesses were also present, it is submitted. But the learned Magistrate rejected the application filed on behalf of the petitioners by their counsel and proceeded to issue non bailable warrants against the petitioners. The petitioners have come to this Court apprehending that if they surrender before the learned Magistrate and apply for bail, their application for regular bail may not be considered by the learned Magistrate in accordance with law, on merits and expeditiously.

2. I have no reason to assume that the learned Magistrate would not consider their application for bail to be filed by the petitioners on merits, in accordance with law and expeditiously. All the offences are shown to be bailable and it is submitted before me that the accused were represented by the counsel who had made an application also. It is also pointed out that no witness was present. In these circumstances, I am certainly of the opinion that there is no

reason to assume that the learned Magistrate would not consider the prayer of the petitioners for bail in accordance with law. No special or specific direction appears to be necessary. Sufficient general directions have already been issued in **Alice George v. The Deputy Superintendent of Police [**2003(1) KLT 339].

3. This Crl.M.C is, in these circumstances, dismissed. But with the specific observation that if the petitioners appear before the learned Magistrate and apply for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously - on the date of surrender itself.

(R.BASANT, JUDGE)

rtr/-